BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Thomas W. Prough Dist. 12, Map 39J, Group A, Control Map 39J, Parcel 15.00) Blount County Residential Property Tax Year 2006

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:1

LAND VALUE IMPROVEMENT VALUE **TOTAL VALUE ASSESSMENT** \$33,700 \$-0-\$33,700 \$8,425

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on November 14, 2006 in Maryville, Tennessee. In attendance at the hearing were Thomas Prough, the appellant, Mike Morton, Blount County Property Assessor, and staff appraiser Phil Williams.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an unimproved one (1) acre tract located on Kathryn Court in the Delozier Place Unit Subdivision in Blount County.

The taxpayer contended that subject property should be valued at \$25,000 - \$27,000. In support of this position, the taxpayer essentially made four arguments. First, the taxpayer maintained that the 2006 Blount County reappraisal program caused the appraisal of subject tract to increase by an unreasonable 66%. Second, the taxpayer asserted that the prior 60% condition factor was increased without justification and is inconsistent with the appraisals of other lots. 2 Third, the taxpayer introduced comparable sales he insisted support a reduced appraisal from a market value standpoint. Fourth, the taxpayer argued that the current appraisal of subject lot does not achieve equalization given the assessor's appraisals of other lots.

The assessor contended that subject property should be valued at \$33,700. In support of this position, two comparable sales were introduced into evidence. Mr. Williams maintained that the comparables support a value of at least \$33,700 after being adjusted for time.3 Mr. Williams also testified that in his opinion the taxpayer's sales lack probative value because they are primarily located outside the subdivision and/or on a main road.

¹ The Blount County Board of Equalization reduced the appraisal of subject land from \$37,400 to \$33,700.

The comparables sold for \$27,900 and \$39,900 on July 18, 2002 and August 10, 2005 respectively. Mr. Williams' adjustments resulted in value indications of \$33,759 and \$41,097 for the subject.

² According to the taxpayer, the assessor of property valued subject property utilizing an 85% condition factor. The Blount County Board of Equalization, in turn, utilized a 100% condition factor. The administrative judge assumes that the local board must have also utilized a lower unit price given its adoption of a lower overall value.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$28,600. As will be discussed below, the administrative judge must respectfully conclude that neither party introduced sufficient evidence to substantiate their contention of value. However, the administrative judge finds that when the relevant proof is viewed collectively, the preponderance of the evidence supports adoption of an 85% condition factor. The administrative judge finds that an 85% condition factor reflects both the relative topography and value of subject lot vis-à-vis the various comparables.

The administrative judge finds that the fair market value of subject property as of January 1, 2006 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2. Similarly, the administrative judge finds historical condition factors are also irrelevant to the issue of current market value.

The administrative judge finds that the taxpayer introduced numerous comparable sales. However, the administrative judge finds that the probative value of the various sales is in most cases significantly diminished for any of three reasons. First, none of the comparables were adjusted. Second, one group of sales occurred in the 1990's and are simply too remote in time to have probative value. Third, several sales occurred after the relevant assessment date of January 1, 2006 and are therefore irrelevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989)

wherein the Assessment Appeals Commission ruled that "[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events." Final Decision and Order at 3.

As previously noted, the fair market value of subject lot constitutes the relevant issue. The administrative judge finds that the State Board of Equalization has historically refused to consider the assessor's appraisals of other parcels in determining market value. As explained by Administrative Judge Pete Loesch in *William J. & Bethany J. Whitson* (Davidson Co., Tax Year 2005):

... Historically, the State Board has adhered to a market value standard in the review of property assessments. See Appeals of Laurel Hills Apartments, et al. (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to "equalization" of its demonstrated market value by a ratio which reflects the overall level of appraisal in the jurisdiction for the tax year in controversy. But this agency has repeatedly refused to accept the appraised values of purportedly comparable properties as sufficient proof of the market value of a property under appeal. In the Appeal of Stella L. Swope (Davidson County, Tax Years 1993 and 1994, Final Decision and Order, December 7, 1995), the Commission reasoned as follows:

The assessor's recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

Id. at p. 2.

Initial Decision and Order at 2.

The administrative judge finds that the assessor's proof also cannot be adopted as the basis of valuation standing by itself. The administrative judge finds that although the comparables were adjusted, one sale occurred in 2002 and the other is located in another subdivision.

Notwithstanding the foregoing, the administrative judge finds that both parties' introduced relevant proof with probative value. The administrative judge finds that when viewed collectively, the relevant proof supports adoption of a value of \$28,600 after rounding for the reasons discussed above.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

LAND VALUE IMPROVEMENT VALUE TOTAL VALUE ASSESSMENT \$28,600 \$-0- \$28,600 \$7,150

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

- 1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal "must be filed within thirty (30) days from the date the initial decision is sent." Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal "identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"; or
- 2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
- 3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 22nd day of November, 2006.

MARK J. MINSKY

ADMINISTRATIVE JUDGE

TENNESSEE DEPARTMENT OF STATE

ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Thomas W. Prough Mike Morton, Assessor of Property